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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 09/902,023 | 07/10/2001 | Walter H. Mawby | 2051-00101 | 9285 |
| 23505 | 7590 | 10/03/2003 | EXAMINER | |
| CONLEY ROSE, P.C. P. O. BOX 3267 HOUSTON, TX 77253-3267 | | | TRAN, KHOA H | |
| | | ART UNIT | PAPER NUMBER | 3634 |

DATE MAILED: 10/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 09/902,023 | MAWBY ET AL. | |
| | Examiner | Art Unit | |
| | Khoa Tran | 3634 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 02 September 2003.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 2,4 and 14-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 2,4 and 14-24 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 10 July 2001 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ . | 6) <input type="checkbox"/> Other: _____ . |

Drawings

The proposed drawings correction and/or the proposed substitute sheets of drawings, filed on February 19, 2003 have been approved.

However, the drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, "a plurality of parallel, adjacent, poured-in-place tunnels, each tunnel including a transverse drive aisle opening therethrough"; "a plurality of first tunnel walls having a first length, said drive aisle openings in said first tunnel walls being wider than said drive aisle; and a plurality of second tunnel walls having a second length, said second length being less than said first length"; "an interface level comprising a plurality of parallel, adjacent, poured-in-place tunnels"; "a plurality of third tunnel walls vertically aligned with said first tunnel walls and having a third length, said third length being at least as great as said first length"; "a plurality of fourth tunnel walls vertically aligned with said second tunnel walls and having a fourth length, said fourth length being at least as great as said second length" and " a superstructure comprising a plurality of parallel, adjacent, poured-in-place tunnels having walls that are each vertically aligned with one of said first and second tunnel walls" in claims 15 and 20; "said first and second tunnel walls has an inner end and an outside end and the drive aisle openings in said first tunnel walls extend as far from said first tunnel wall first ends as the distance between said second tunnel walls first ends and said second tunnel wall second ends" in claims 16 and 21 and "each first tunnel wall is separated from another first tunnel wall by a pair of

second tunnel walls, in claims 17 and 22 must be shown or the features canceled from the claim. No new matter should be entered.

Applicants are required to submit a proposed drawing correction in reply to this Office action.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 2, 4, and 15-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stewart et al. ('496) in view of Cerutti et al. Stewart et al. ('496) disclose a multi-story dwelling (500) of multiple rectangular box-like concrete "tunnel" comprising a substructure of a parking garage (531) and a superstructure of a residential place (561); the parking garage having at least two drive ways (518a and 518b), a center aisle parking tunnel (542, 544) and two sides aisle parking (534, 536) tunnel, see Figure 14, the first and third tunnels each set having four or more parking spaces with a length dimension that is wider or wide enough to accommodate a parking space in addition to the drive aisle; the second and fourth tunnels each set having two parking spaces with a length that is less than the first length; the center aisle tunnel is separate from the opposite center aisle tunnel by a pair of tunnel walls to form a stairway (526, 546) or a corridor (562) in between. Cerutti et al. teach a method of

poured-in-place concrete tunnel, see claimed 12. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to utilize a well-known and notoriously old method of poured-in-place concrete to form tunnels as taught by Cerutti et al. in order to prevent flotation of the concrete since it is well-within the level of skill in the art to utilize the known features of the art for the purpose for which they are known.

Response to Arguments

Applicants' arguments filed on September 02, have been fully considered but they are not deemed to be persuasive.

With respect to applicants' remarks to the drawing objections that the submitted informal drawings, which is not to be of record, for examiner views to better understand various elements being claimed is noted. However, this matter does overcome the rejections of record because it's still unclear to the general public when the application become a patent which element is to be considered, i.e., "drive aisle openings in said first tunnel being wider than said drive aisle".

With respect to applicants' remarks to the 103 rejection, it appears that the claim language fail to provide a clear demarcation of what being claimed in order to drawn a distinction of the claim subject matter from reading on the prior art. Further, it appears what is being claimed is subjective to a viewer since there is no basis to drawn therefrom. For example, is a viewer choice to pick and choose and combine the number of parking aisles on a parking garage and to compare with a lesser combined

number of parking spaced to arrive one drive aisle openings being wider than the drive aisle.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khoa Tran whose telephone number is (703) 306-3437. The examiner can normally be reached on Monday through Thursday from 9:30 A.M. to 7:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola, can be reached on (703) 308-2686. The fax phone number for this Group before a final Office action is (703) 872-9326 and after a final Office action is (703) 872-9327.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-2168.

Khoa Tran

September 30, 2003



DANIEL P. STODOLA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600